

THE CORPORATION OF THE CITY OF DRYDEN

BY-LAW NUMBER 2021-73

BEING A BY-LAW TO ESTABLISH A BOULEVARD MAINTENANCE BY-LAW WITHIN THE CITY OF DRYDEN.

WHEREAS section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (Municipal Act 2001) gives municipalities the capacity, rights, and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

WHEREAS sections 8 and 11 of the Municipal Act, 2001 provides the City with broad authority to provide any service or thing that the City considers necessary or desirable for the public;

WHEREAS section 127(a) of the Municipal Act, 2001 enables a municipality to pass by-laws requiring the owner of lands to clean and clear the land and section 127(b) enables a municipality to regulate how matters under section 127(a) shall be done;

WHEREAS tall grass and weeds may pose a risk to safety and fire safety, may impair visual sight lines, may create habitats for mosquitos, rodents or other insects and animals and contribute to neighbourhood blight;

WHEREAS section 436 of the Municipal Act, 2001 provides that a municipality may pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine compliance with a by-law or an order made pursuant to the by-law;

WHEREAS section 446 of the Municipal Act, 2001 provides that a municipality may proceed to do things at a person's expense which that person is otherwise required to do under a by-law but has failed to do and the cost incurred by the municipality may be recovered by adding the costs to the tax roll and collecting them in the same manner as property taxes.

NOW THEREFORE the Council of the Corporation of the City of Dryden enacts as follows:

DEFINITIONS

1. In this By-law

"Boulevard" means the part of the public street that is not used, or intended to be used for vehicle travel by the general public, and includes the landscaped areas and any driveway apron and is situated between the travelled portion of the road and the adjoining property line;

"By-law Enforcement Officer" means the Municipal By-law Officer(s) appointed by by-law by the Council of the City of Dryden;

"Corporation" and "City" both mean the Corporation of the City of Dryden;

"Council" means the Council of the Corporation of the City of Dryden;

"Land" includes any private property, premises, grounds, yards or vacant lot;

"Owner of Lands" includes the registered owner, occupant, tenant, person in charge of the premises or lands, or the person for the time being managing or receiving the rent of the lands whether on his/her own account or on the account of an agent or trustee of any other person or any of the aforesaid;

"Street" means a highway as defined in the Municipal Act, 2001; and

"Tall grass" includes any grasses or weeds which exceed 20 centimeters in height.

SCOPE

2. This By-law shall apply to all land in the City.

ADMINISTRATION AND ENFORCEMENT

3. City staff appointed by Council as By-law Enforcement officers are responsible for the administration and enforcement of this By-law and may assign duties to other City staff as required. City staff who carry out any action under this By-law are deemed to be authorized staff for the purposes of the by-law.

REQUIREMENTS

4. Every Owner of Land shall maintain the adjoining Boulevard at their expense by cutting and maintaining long grass to a height not exceeding 20 centimeters.
5. Every Owner of Land who is served with an Order to Remedy or Notice of Contravention pursuant to the provisions of this By-law shall comply with the terms of the Notice or Order within the time set out therein.

MUNICIPAL RESPONSIBILITIES

6. The responsibility of the Owner of Land to maintain the Boulevard as described in (5.) of this By-law does not apply to:
 - (a) medians and traffic islands located in Streets;
 - (b) street trees, hedges, shrubs and maintained natural gardens planted by the City;

- (c) boulevards maintained by the City, and
- (d) where, in the opinion of the Municipal By-law Officer, the Owner of the Lands of the adjoining Boulevard cannot be maintained due to steep grades, walls, fences or other constraints.

USING BOULEVARD FOR MUNICIPAL PURPOSE

- 7. Nothing in this By-law shall prevent the City from altering, opening, or otherwise using any Boulevard for municipal purposes.

ENFORCEMENT

- 8. A Municipal By-law Enforcement Officer who finds land which does not comply with the requirements of this By-law may order the Owner of the Land, by way of a Notice of Contravention or Order to Remedy, to bring the Land or Boulevard into conformity with the provisions of this By-law within the time set out in the Notice or Order.
- 9. The Notice or Order shall be served upon the Owner of Land by personal service or by mailing a copy by registered mail to the last known address noted on the tax assessment roll.
- 10. Service by registered mail shall be deemed to be effective on the fifth day after the Notice or Order is mailed.
- 11. If there is evidence that the person in possession of the Land is not the registered property Owner of the Land then the Notice or Order shall be served on both the registered owner and the person in possession of the Land.
- 12. Where an Owner of Land, who has been served with a Notice or Order fails to comply, a Municipal By-law Officer, City employee or any authorized agent on behalf of the City may enter on the Land at any reasonable time and complete the work required to bring the Lands into compliance with the provisions of this By-law as set out in the Notice or Order.
- 13. Where the City has performed the work required to bring the Lands into compliance with the By-law, the expenses incurred in doing the work may be collected by action or the costs may be added to the tax roll for the Lands and collected in the same manner as taxes.

OFFENCES

- 14. Every person who contravenes any of the provisions of this By-law or who obstructs or attempts to obstruct a Municipal By-law Enforcement Officer in carrying out their duties under this By-law is guilty of an offence and is liable, upon conviction to a fine, and such other penalties, as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33, and the Municipal Act, 2001, as both may be amended.

VALIDITY AND INTERPRETATION

15. Words importing the singular number shall include the plural, and words importing the masculine gender shall include the feminine, and the converse of the foregoing also applies unless the context of the By-law otherwise requires.
16. If a court of competent jurisdiction declares any provisions or part of a provision of this By-law to be invalid or to be of no force and effect, it is the intention of Council in enacting this By-law that the remainder of this By-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

ENACTED AND PASSED THIS 23rd DAY OF AUGUST 2021, as witnessed by the Corporate Seal of the Corporation of the City of Dryden and the hands of its proper Officers duly authorized in that behalf.

THE CORPORATION OF THE CITY OF DRYDEN

Mayor

Clerk

READ A FIRST AND SECOND TIME THIS 23rd DAY OF AUGUST 2021.

READ A THIRD TIME AND PASSED AS READ THIS 23rd DAY OF AUGUST 2021.